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OFFICE OF PETITIONS

In re Application of	:
Najam, et al.	:
Application No. 09/858,324	:DECISION GRANTING PETITIONS
Filed: May 15, 2001	:UNDER § 1.48(a) and § 1.183
Attorney Docket No. 10736/8	:

This is a combined decision on the "REQUEST FOR RECONSIDERATION OF PETITIONS UNDER 37 C.F.R. § 1.48(a) AND AMENDMENT TO CORRECT INVENTORSHIP" and the "PETITION UNDER 37 C.F.R. § 1.183 TO WAIVE A REQUIREMENT UNDER 37 C.F.R. § 1.48", filed July 8, 2005, to waive the requirement under § 1.48(a)(3) for execution of the declaration by all of the actual inventors.

The petition under 37 CFR 1.48(a) is GRANTED.

The petition under 37 CFR 1.183 is GRANTED.

The above-identified application was filed on May 15, 2001. A properly executed declaration identifying inventors Zahid Najam, Peder J. Jungck, Macduy T. Vu, and Andrew T. Nguyen was filed on August 29, 2001, in response to a Notice to File Missing Parts mailed July 20, 2001. On March 3, 2005, a petition under 37 C.F.R. 1.48(a) was filed to amend the inventorship to add joint inventor Gregory Scott Triplett. Accompanying the petition was a statement from added inventor Triplett, stating that the inventorship error occurred without deceptive intention; and a declaration executed by Najam, Jungck, Vu, and Triplett.

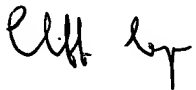
However, the petition was dismissed in a decision mailed on June 3, 2005. Petitioner had not provided a written consent from the assignee. In addition, petitioner did not set forth the steps taken to have Nguyen execute the declaration.

Under 37 C.F.R. § 1.183, any requirement of the regulations, which is not a requirement of the statutes, may be waived by the Commissioner's designee in an extraordinary situation, when justice so requires. Waiver of the requirement is appropriate in this instance. The facts of the record do not present uncertainty as to this correction of inventorship. The assignee has given consent to the requested correction. Petitioner has shown that Nguyen was presented with the application papers, but as of the date of the petition, has not executed the declaration.

Accordingly, the newly executed declaration filed on March 9, 2005 will be entered, despite the fact that the requirement set forth in 37 CFR 1.48(a)(3) that all the inventors sign a reexecuted oath or declaration has not been satisfied.

The application file is being forwarded to Group Art Unit 2189 for processing of the RCE filed March 3, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions